

THOMAS E. FRANKOVICH (State Bar No. 074414)  
 JENNIFER L. STENEGER (State Bar No. 202985)  
 THOMAS E. FRANKOVICH,  
*A Professional Law Corporation*  
 2806 Van Ness Avenue  
 San Francisco, CA 94109  
 Telephone: 415/674-8600  
 Facsimile: 415/674-9900  
 Attorneys for Plaintiffs  
 DAREN HEATHERLY  
 and DISABILITY RIGHTS  
 ENFORCEMENT, EDUCATION,  
 SERVICES: HELPING YOU  
 HELP OTHERS

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

DAREN HEATHERLY, an individual; and )  
 DISABILITY RIGHTS, ENFORCEMENT, )  
 EDUCATION, SERVICES:HELPING YOU )  
 HELP OTHERS, a California public benefit )  
 corporation,

Plaintiffs,

v.

APPLE TREES CAFÉ; ORETTA FAYE )  
 BUTTNER TRUSTEE of the ORETTA )  
 FAYE BUTTNER REVOCABLE TRUST; )  
 ADRIAN CHAPARRO, an individual dba )  
 APPLE TREES,

Defendants.

**CASE NO. C 07-3327 MEJ**

**RETURN OF SERVICE RE DEFENDANTS**  
 ORETTA FAYE BUTTNER TRUSTEE of the  
 ORETTA FAYE BUTTNER REVOCABLE  
 TRUST; ADRIAN CHAPARRO, an individual  
 dba APPLE TREES

RETURN OF SERVICE RE DEFENDANTS ORETTA FAYE BUTTNER TRUSTEE of the ORETTA FAYE BUTTNER REVOCABLE  
 TRUST; ADRIAN CHAPARRO an individual dba APPLE TREES

Attorney or Party without Attorney: THOMAS E. FRANKOVICH, Bar #74414 THE FRANKOVICH GROUP 2806 VAN NESS AVE. SAN FRANCISCO, CA 94109 Telephone No: 415-674-8600 FAX No: 415-674-9900				For Court Use Only	
Attorney for: Plaintiff				Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: United States District Court Northern District Of California					
Plaintiff: DAREN HEATHERLY, et al. Defendant: APPLE TREES CAFE, et al.					
<b>PROOF OF SERVICE SUMMONS &amp; COMPLAINT</b>		Hearing Date:	Time:	Dept/Div:	Case Number: C 07 3327 MEJ

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the Summons In A Civil Case Complaint For Injunctive Relief And Damages, Civil Cover Sheet; Welcome To The U.S. District Court; Notice Of Assignment Of Case To A United States Magistrate Judge For Trial; Consent To Proceed Before A United States Magistrate Judge; Declination To Proceed Before A Magistrate Judge And Request For Reassignment To A United States District Judge; Notice Of Electronic Filing Or Other Case Activity; Scheduling Order For Cases Asserting Denial Of Right Of Access Under Americans With Disabilities Act Iii; Case Management Standing Order; Joint Case Management Statement And [Proposed] Case Management Order; Notice Of Trial Assignment To United States Magistrate Judge And Order To File Consent/Request For Reassignment Form; Consent To Assignment Or Request For Reassignment; Contents Of Joint Case Management Statement; Ecf Registration Information Handout
3. a Party served ORETTA FAYE BUTTNER
4. Address where the party was served: 2404 BAGETT DRIVE  
SANTA ROSA, CA 95407
- 5 I served the party:
  - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Mon., Aug. 20, 2007 (2) at: 12:00PM
- 6 The "Notice to the Person Served" (on the Summons) was completed as follows.
  - a as an individual defendant
7. Person Who Served Papers:
  - a ALBENE RUMMEL
  - d. The Fee for Service was: Recoverable Cost Per CCP 1033.5(a)(4)(B)
  - e. I am: (3) registered California process server
    - (i) Independent Contractor
    - (ii) Registration No.: P-371
    - (iii) County: Sonoma



8 I declare under penalty of perjury under the laws of the State of California and under the laws of the United States Of America that the foregoing is true and correct.

Date: Mon, Aug. 27, 2007

*Alene Rummel*  
 (ALBENE RUMMEL)

Attorney or Party without Attorney: THOMAS E. FRANKOVICH, Bar #74414 THE FRANKOVICH GROUP 2806 VAN NESS AVE. SAN FRANCISCO, CA 94109				For Court Use Only	
Telephone No: 415-674-8600 FAX No: 415-674-9900		Ref. No or File No.:			
Insert name of Court, and Judicial District and Branch Court: United States District Court Northern District Of California					
Plaintiff: DAREN HEATHERLY, et al. Defendant: APPLE TREES CAFE, et al.					
<b>AFFIDAVIT OF REASONABLE DILIGENCE</b>		Hearing Date:	Time	Dept/Div:	Case Number: C 07 3327 MEJ

1. I, ALENE RUMMEL, and any employee or independent contractors retained by FIRST LEGAL SUPPORT SERVICES are and were on the dates mentioned herein over the age of eighteen years and not a party to this action. Personal service was attempted on Defendant ORETTA FAYE BUTTNER as follows:

2. **Documents:** Summons In A Civil Case Complaint For Injunctive Relief And Damages; Civil Cover Sheet; Welcome To The U.S. District Court; Notice Of Assignment Of Case To A United States Magistrate Judge For Trial; Consent To Proceed Before A United States Magistrate Judge; Declination To Proceed Before A Magistrate Judge And Request For Reassignment To A United States District Judge; Notice Of Electronic Filing Or Other Case Activity; Scheduling Order For Cases Asserting Denial Of Right Of Access Under Americans With Disabilities Act Iii; Case Management Standing Order; Joint Case Management Statement And [Proposed] Case Management Order; Notice Of Trial Assignment To United States Magistrate Judge And Order To File Consent/Request For Reassignment Form; Consent To Assignment Or Request For Reassignment; Contents Of Joint Case Management Statement; Ecf Registration Information Handout..

Day	Date	Time	Location	Results
Sat	08/18/07	11:00am	Home	I COULD NOT FIND THIS ADDRESS. I CALLED 411 AND OBTAINED THE SUBJECT PHONE NUMBER. PER THE SUBJECT, SHE HAS NOT LIVED ON "EL PORTAL DRIVE" IN SOME TIME. SHE THEN PROVIDED HER CURRENT ADDRESS. Attempt made by: ALENE RUMMEL. Attempt at: 457 EL PORTAL DRIVE SANTA ROSA CA 95407.
Mon	08/20/07	12:00pm	Home	Personal Service on: ORETTA FAYE BUTTNER Home - 2404 BAGETT DRIVE SANTA ROSA, CA. 95407 by Serving: party in item 3.a.. Served by: ALENE RUMMEL

3. **Person Executing**

- a. ALENE RUMMEL  
 b. FIRST LEGAL SUPPORT SERVICES  
 301 CIVIC CENTER DRIVE WEST  
 SANTA ANA, CA 92701  
 c. (714) 541-1110

Recoverable Costs Per CCP 1033.5(a)(4)(B)

d. **The Fee for service was.**

- e I am. (3) registered California process server  
 (i) Independent Contractor  
 (ii) Registration No. P-371  
 (iii) County: Sonoma

4. I declare under penalty of perjury under the laws of the State of California and under the laws of the United States Of America that the foregoing is true and correct.

† Date: Mon, Aug. 27, 2007

**AFFIDAVIT OF REASONABLE DILIGENCE**

(ALENE RUMMEL)

Attorney or Party without Attorney <b>THOMAS E. FRANKOVICH, Bar #74414</b> <b>THE FRANKOVICH GROUP</b> <b>2806 VAN NESS AVE.</b> <b>SAN FRANCISCO, CA 94109</b> Telephone No: 415-674-8600 FAX No 415-674-9900			For Court Use Only	
Attorney for: Plaintiff			Ref No. or File No	
Insert name of Court, and Judicial District and Branch Court: <b>United States District Court Northern District Of California</b>				
Plaintiff: DAREN HEATHERLY, et al. Defendant: APPLE TREES CAFE, et al.				
<b>PROOF OF SERVICE</b> <b>SUMMONS &amp; COMPLAINT</b>			Hearing Date:	Time:
			Dept/Div:	Case Number: <b>C 07 3327 MEJ</b>

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the Summons In A Civil Case; Complaint For Injunctive Relief And Damages; Civil Cover Sheet; Welcome To The U.S. District Court; Notice Of Assignment Of Case To A United States Magistrate Judge For Trial, Consent To Proceed Before A United States Magistrate Judge; Declaration To Proceed Before A Magistrate Judge And Request For Reassignment To A United States District Judge; Notice Of Electronic Filing Or Other Case Activity; Scheduling Order For Cases Asserting Denial Of Right Of Access Under Americans With Disabilities Act In; Case Management Standing Order; Joint Case Management Statement And [Proposed] Case Management Order; Notice Of Trial Assignment To United States Magistrate Judge And Order To File Consent/Request For Reassignment Form; Consent To Assignment Or Request For Reassignment, Contents Of Joint Case Management Statement; Ecf Registration Information Handout.

3. a Party served: **ADRIAN CHAPARRO**

4. Address where the party was served: **APPLE TREES CAFE**  
**124 S MAIN STREET**  
**SEBASTOPOL, CA 95472**

5. I served the party:

a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Mon., Aug 20, 2007 (2) at: 1:21PM

6. The "Notice to the Person Served" (on the Summons) was completed as follows:

a. as an individual defendant

7. Person Who Served Papers:

a. **ALENE RUMMEL**

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. The Fee for Service was

e. I am: (3) registered California process server

(i) Independent Contractor

(ii) Registration No.. **P-371**

(iii) County: **Sonoma**



8. I declare under penalty of perjury under the laws of the State of California and under the laws of the United States Of America that the foregoing is true and correct.

Date: Mon, Aug. 27, 2007

*Alene Rummel*  
 (ALENE RUMMEL)  
 8368277.thofr-fg.83424



**CERTIFICATE OR PROOF OF SERVICE**

State of California                    )  
  ) ss  
County of San Francisco            )

I, the undersigned, say: I am and was at all times herein mentioned, over the age of eighteen (18) years and not a party to the within action or proceeding; that my business address is 2806 Van Ness Avenue, San Francisco, CA 94109-5460; that on the below date, following normal business practice, I served the foregoing document, described as:

**PROOF OF SERVICE SUMMONS AND COMPLAINT**

on the interested parties in this action, conveyed as follows:

- ☒ by depositing true copies thereof, enclosed in a sealed envelope, with postage thereon fully prepaid:  
☒ in first class U.S. Mail  
☐ in \_\_\_ priority or \_\_\_ standard overnight mail via Federal Express.

I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the United States Postal Service or Federal Express. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service or Federal Express in San Francisco.

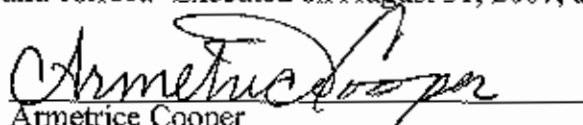
- ☐ by transmitting via facsimile to the fax number(s) set forth below.  
☐ by causing personal delivery by Western Messenger Service.  
☐ by personal hand-delivery.

addressed to:

Adrian Chaparro  
Appletrees Café  
124 S. Main Street  
Sebastopol, CA 95472

Oretta Faye Buttner  
2404 Baggett Drive  
Santa Rosa, CA 95407

I declare under penalty of perjury under the laws of the State of California that I am employed in the office of a member of the bar of this court at whose direction the service was made, and that the foregoing is true and correct. Executed on August 31, 2007, at San Francisco, California.

  
Armetrice Cooper  
(Original signed)